

MAYOR'S COMMISSION ON DISABILITIES

November 30, 2011

Annual Forum: Employment Services and People with Disabilities

Joe Chin, chair of the Employment Committee, welcomed everyone and introduced the topic of the forum – the benefits available to employers who hire people with disabilities and information about employment-related opportunities. The speakers were introduced:

- Craig Lewis, Program Manager, One Stop Center, Baltimore City Mayor's Office of Employment Development
- Jade Ginderich – Director of Employment Policy, Maryland Department of Disabilities
- Tim Elder, National Federation for the Blind member, attorney and 2010-2011 Disability Rights Fellow at Brown, Goldstein and Levy
- Councilman Robert Curran

Councilman Curran provided an overview of the Hiring Preferences law recently enacted in Baltimore City. The ordinance was approved in February 2011. It provides a hiring preference for persons with disabilities, including veterans with disabilities, as outlined under the ADA law. It recognizes the value of this sector of the workforce. Councilman Curran shared his interest in continuing to cooperate with the Mayor's Commission on Disabilities to advocate for legislative initiatives. Ordinance 11-424 can be found on the Baltimore City website.

Jade Ginderich, Md. Department of Disabilities, spoke about the benefits offered through the State of Maryland. The Employed Individuals with Disabilities program allows disabled persons to maintain their health insurance when they return to the workforce. There is also a fee-for-service benefits counseling program available. Information for employers on tax credits, best practices, and the return on investment for hiring persons with disabilities is available on the state's website. This is part of an employer outreach effort, which also includes assistance in locating candidates for employment. Ms. Ginderich noted that on the Workforce Exchange registration, there is a voluntary question asking if you have a disability – she encouraged everyone to answer this question, as it assists in identifying prospects for employers who would like to hire a job seeker with a disability, and in measuring the impact of the initiative to promote employment of persons with disabilities. Barriers to employment are a big issue, and feedback on this issue is welcomed.

The state tax credit for hiring people with disabilities is up for sunset/renewal this year.

Craig Lewis is a program manager at the Eastside One Stop Center. The center's purpose is to provide training and employment services. He shared information about the programs and services offered. Persons with disabilities have equal access and opportunity to use all of the services offered to job seekers. Staff at the One Stop Center is trained to discuss disabilities only in relation to the need to attain employment. Resources needed, like a TTY or zoom-text, are available to help assist people with various degrees of disabilities. Orientation around job opportunities, partner services (GED, literacy, etc.), Md. Workforce Exchange jobs database, form completion assistance, resume writing, job-readiness training, and other programs is available at each One-Stop site. The program can reimburse employers up to 90% of the cost of training a new employee. They can also fund up to \$3000 for an individual to take advantage of job training in a high pace field. There are both self-directed and staff-facilitated programs available for job training and employment. Business resource representatives work with businesses who want to hire qualified individuals, and bring this information back to the One Stop to help make connections. Candidates can be pre-screened at the One Stop Center, which employers appreciate.

Tim Elder is a civil rights litigator, and spoke about the rights and protections under the Americans With Disabilities Act (ADA) for job seekers and employers. The statute balances the interests of the disabled person and the concerns of the employer to run a profitable business and retain reliable employees, creating a win/win situation. When placed well and accommodations are made, retention rates among employees with disabilities are higher than average.

Coverage, the hiring process and reasonable accommodations are major sections of the law. The ADA defines coverage as applying to a disabled person with a physical or mental impairment that substantially limits daily life activities. The employer must consider any qualified (via experience, education) individual, including someone who can perform the essential functions of the job with or without accommodation. Disabilities may be mitigated (ex.: by medication) or episodic. Any employer with 15 or more employees falls under the ADA requirements. "Employer" includes unions, state and local governments, and temporary agencies. The ADA prohibits employers from asking directly about disabilities, except about what accommodations the employee might need to do the job. Once an offer has been made to an employee, a medical evaluation can be required (if it's required of all employees). The responsibility not to discriminate continues throughout the employment, although an employer can request a medical examination of an employee later if there is a justification, such as a major change in performance or concern that the employee poses a risk at that point. Accommodations expected of an employer must be reasonable: they cannot eliminate a central function, or impose an undue hardship (either difficulty or expense). Employers are only required to

accommodate known disabilities – so if the employee has not disclosed their disability, they cannot seek accommodations from the employer. Sometimes an employee must choose between disclosure/limitations on privacy and poor performance evaluation due to some aspect of their disability. It's important for persons with disabilities to work with their doctors, to draft appropriate information to share with the employer. It does not necessarily have to identify the disability specifically, only indicate that there is one and the nature of any work limitations. Employers must limit information about an employee's disability to the supervisor who must implement any accommodations and any work restrictions. The Job Accommodation Network is a resource for employees. Employees are not required to accept all accommodations offered by the employer; it is up to the employee to decide what accommodations they want to accept. This can be a difficult situation if there are safety considerations – there is a standard that the employer can say that safety is an essential function of the job or poses a direct threat. The employer must be sure that their safety standards are objective. However, an employee who opts not to take advantage of accommodations must be responsible for any impact on their work performance. Employees have 180 days to file charges with the EEOC if they have been discriminated against due to their disability, in order to preserve their rights, and then should continue to do their best while awaiting the outcome of their complaint. There is a non-recrimination requirement.

A question and answer period followed.

- The EEOC provides a lot of technical information about nondiscrimination on their website that can be very useful for small employers.
- Asking for a copy of any policies relevant to an employment-based complaint can be very helpful in determining whether an action reflects the policy, or someone's interpretation of it.
- The One Stop Center's digital lab may be challenging for someone who is not computer literate, but many employers ask for on line applications. Learning labs will help job seekers learn to use computers to apply for jobs on line.
- While many employers are cautious about hiring someone with a disability, often the problems that they face are with employees who develop disabilities post-employment, not those hired with a disability. A discussion about this, and the positive return on investment of hiring persons with disabilities, can often allay their fears. Other ways to help employers become more comfortable might include Mentoring Days, internships or on-the-job training programs involving persons with disabilities.
- The Md. Human Relations Commission is a resource to help determine whether any discrimination may have occurred.
- Federal and state tax credits are available. (Work opportunities tax credits)

Thanks were offered to the panel members, to the League for hosting the event, and to the members of the Employment Committee for planning the Forum.